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BARAFF, KOERNER, OLENDER & HOCHBERG, P.C.

ATTORNEYS AT LAW
5335 WISCONSIN AVENUE, N.W., SUITE 300
WASHINGTON, D.C. 20015-2003

(202) 686-3200

DEC - 1 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

OF COUNSEL
ROBERT BENNETT LUBIC

B. JAY BARAFF
ROBERT L. OLENDER
JAMES A. KOERNER
PHILIP R. HOCHBERG
AARON P. SHAINIS
LEE J. PELTZMAN
MARK J. PALCHICK
JAMES E. MEYERS

December 1, 1992

FAX: (202) 686-8282

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N. W.
Washington, D. C. 20554

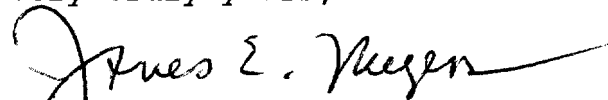
Re: MM Docket No. 92-260
Comments of TKR Cable Company

Dear Ms. Searcy:

Transmitted herewith on behalf of TKR Cable Company, are an original and nine copies of its Comments in the above-referenced rule making proceeding.

Should you have any questions, please contact the undersigned.

Very truly yours,



James E. Meyers
Counsel for
TKR Cable Company

Enclosures

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DEC - 1 1992

Before the
Federal Communications Commission
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Implementation of the) MM Docket No. 92-260
Cable Television Consumer)
Protection and Competition)
Act of 1992)
)
Cable Home Wiring)

To: The Commission

COMMENTS OF TKR CABLE COMPANY

Peter Luscombe
Vice President of Engineering
TKR Cable Company
P. O. Box 4247
Warren New Jersey
(908) 356-1010

James E. Meyers
Mark J. Palchick
B. Jay Baraff
Baraff, Koerner, Olender
& Hochberg, P.C.
5335 Wisconsin Avenue, N.W.
Suite 300
Washington, D. C. 20015
(202) 686-3200

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)
Cable Home Wiring)

To: The Commission

SUMMARY

The Commission has broad discretion under Section 16 of the 1992 Cable Act in promulgating home wiring regulations. The Commission's home wiring regulations should preempt and supersede any state and local laws and provisions in franchises to ensure uniformity of implementation and application.

The Commission should extend signal leakage requirements with respect to the critical bands (108-137 MHz and 225-400 MHz) to all "multichannel video programming distributors". This will ensure protection of the public from leakage occasioned by subscriber-owned in-home wiring.

The regulations should also clarify that cable operators have no legal responsibility with respect to signal leakage from subscriber-acquired in-home wiring during any period in which the cable operator is not providing service to such subscriber. (At paragraph 6 of the Notice the Commission seems to suggest that Congress intended, at page 119 of the House Report, that cable

operators have an ongoing responsibility with respect to signal leakage of subscriber-acquired in-home wiring; the House Report intended that responsibility only during the period in which the cable operator was providing service.)

The Commission should clarify that its regulations extend only to those installations made by the cable operator and not to non-cable installations, such as those of another "multichannel video programming distributor" or of the homeowner, a developer, or a contractor. A cable operator should not be required to utilize any such home wiring if it was not originally supplied by the operator or if the wiring has become inadequate at the time of the re-connect or new-connect. Cable operators should have maximum flexibility, including necessary access and inspection capability, to upgrade or otherwise replace any subscriber-owned home wiring as part of re-providing service to premises that have ceased taking cable, consistent with requirements to ensure the overall integrity of the cable system.

The Commission's regulations should also ensure that cable operators have access to an inspection of home wiring as necessary to ensure that no theft of signal or service has or would occur upon re-connection. A federal right of access for inspection to detect signal and service theft is particularly important in a multi-dwelling unit environment.

Cable operators should be free to fashion different options for subscriber acquisition of cable-installed home wiring that take into account maintenance. If the subscriber is to acquire ownership of internal wiring, then that subscriber must have the ultimate obligation to bear the cost of maintenance. Cable operator should retain ultimate discretion, as under the current rules, to suspend service if the home wiring falls out of compliance with the system's signal leakage and other technical requirements.

The regulations should not create a disincentive for cable operators to upgrade their cable plants. The regulations should also permit cable operators and subscribers to resolve issues of removal and abandonment as part of the arrangement by which the subscriber may obtain ownership of the home wiring at the end of his or her subscription.

The Commission's regulations should permit a cable operator to obtain a fair value for its internal wiring as may be agreed between the subscriber and the cable operator.

The regulations should be flexible in allowing cable operators to make good faith engineering determinations as to where the home wiring distribution system should begin and where the cable system should end.

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**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
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Implementation of the)	MM Docket No. 92-260
Cable Television Consumer)	
Protection and Competition)	
Act of 1992)	
)	
Cable Home Wiring)	
To: The Commission		

COMMENTS OF TKR CABLE COMPANY

TKR Cable Company, a partnership of Knight Ridder Cablevision and Liberty Media Corporation ("TKR"), and a multiple cable system operator with systems principally in New Jersey and New York, through the undersigned, hereby submits its comments to the above-captioned Notice of Proposed Rule Making, FCC 92-500 (released November 6, 1992) ("Notice").

I. Introduction

Home wiring installed by TKR belongs to it. TKR is aware, however, of various contentions of franchising authorities as to whether similarly situated installations are fixtures or remain the property of the cable operator. Thus, the FCC's rule making is welcome if it will establish uniformity and fairness to the subscriber and to the cable operator regarding the status and disposition of cable home

wiring, particularly in light of the hazards to air navigation that can occur if cable television wiring is not correctly operated and carefully maintained by a cable operator, a former cable subscriber, a second cable operator, or any other "multichannel video programming distributor."¹

Section 16 of the 1992 Cable Act, at amended section 624(d), is neutral as to ownership of home wiring. The plain language of the statute is to require the Commission to "prescribe rules concerning the disposition, after a subscriber to a cable system terminates service, of any cable installed by the cable operator within the premises of such subscriber." Amended Section 624(d)(1). Although there is legislative history indicating Congress' desire that subscribers have an opportunity to acquire their own internal wiring (H. Rep. 102-628, 102d Cong., 2d Sess. (June 29, 1992) ("House Report") at 118-119)², the Commission

¹Section 3(c) of the 1992 Act defines "multichannel video programming distributor" to mean, without limitation, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming. See amended section 602(12) of the Cable Act. "Multichannel video program distributor" also means satellite master antenna service. S. Rep. 102-92, 102d Cong., 1st Sess. (June 28, 1991) ("Senate Report") at 71.

²The House Report was adopted by the Conference Report over the Senate Report. See H. Rep. 102-802 (September 14, 1992) ("Conference Report") at H8330 Cong. Rec. (September 14, 1992). See also Senate Report at 23.

nevertheless has broad discretion under the statute in promulgating these regulations.

II. Factors for Consideration in Regulating Home Wiring Disposition

As set forth below in its detailed comments, TKR believes that the Commission's regulatory program for the disposition of internal cable installations should carefully consider subscriber ownership of internal wiring in the broader contexts of: (1) federal preemption; (2) public safety; (3) the integrity of the cable operator's existing and future facilities as it makes the initial installation and as it reconnects to preexisting subscriber-owned plant; (4) signal and service theft; (5) the non-cable system-provided in-home video distribution plant; (6) maintenance; (7) upgrading; (8) removal or abandonment; (9) cable operator compensation and access to premises; and (10) point of demarcation and special problems of multi-dwelling units.

A. Preemptiveness of FCC Regulations

The Commission's home wiring regulations should preempt and supersede any state or local laws, regulations or provisions in franchises that could be viewed as extending into the field of the ownership or other disposition of wiring supplied by cable systems. For example, many of TKR's franchises require free installation of cable services to "new areas". New areas include not only newly wired sections of the franchise territory, but also recently wired

multi-dwelling units. The Commission's rules should include relief from such existing franchise or local regulatory requirements as these that may be in conflict. The Commission's regulations likewise should preempt state, local and franchising authority interference with arrangements between cable operators and subscribers for disposition of home wiring, consistent with the Commission's regulations. This will ensure uniformity of implementation and application of the regulations and will avoid expensive and time-consuming disputes over whether cable television installations are fixtures or the terms and conditions under which they must be installed, removed or abandoned.

B. Public Safety

Under the Commission's current rules, only cable television systems are required to prevent and are liable for forfeiture for failing to prevent signal leakage in the critical bands (108-137 MHz and 225-400 MHz). 47 C.F.R. § 76.615. These signal leakage requirements do not, but should, apply to other "multichannel video programming distributors."

To the extent cable-installed home wiring becomes interconnected with the facilities of non-cable "multichannel video programming distributors," there will be no mechanism to ensure protection of the public from leakage. Moreover, the present state of leakage sniffing equipment makes it virtually impossible to identify which

readings account for leakage attributable to the system conducting the monitoring.

Cable subscribers will likewise have a disincentive to stay with cable if their home wiring were to leak. Because signal leakage does not necessarily manifest itself to the subscriber by way of, for example, poor picture quality, subscribers would have an incentive to switch service to a non-cable "multichannel video programming distributor" were the cable operator to cease service until the subscriber rectified the signal leakage problem.

The Commission, accordingly, should extend to all "multichannel video programming distributors" the same signal leakage requirements and enforcement liability presently imposed on cable systems. Without a viable regulatory mechanism to ensure that all users of critical bands do not cause harmful signal leakage, cable television systems could likely find themselves penalized for leakage from facilities other than their own.

The duty to protect the public from all users of critical bands is important to the continued growth of cable television (and other "multichannel video programming distributors") as the need for additional on-frequency or shared use of critical bands increases. Without a mechanism applicable equally to all "multichannel video programming distributors" to prevent signal leakage, there will be a disincentive to permit cable systems and other "multichannel

video programming distributors" expanded use of these frequencies, to the detriment of the very subscribers that home wiring ownership is designed to benefit.

As seems to be alluded to by the Commission in paragraph 6 of the Notice, the cable operator would improperly be assessed with continuing signal leakage responsibility for all of its home installations acquired by subscribers, even after termination of service by the cable operator, irrespective of the provision of service through the home wiring by other "multichannel video programming distributors." The Commission's suggestion relies on page 119 of the House Report which clearly intends that the cable operator have such continuing responsibility only to the extent it is providing service through the subscriber-owned wiring:

Cable operators continue to have legal responsibility to prevent signal leakage, since improper installation or maintenance could threaten safety services that operate on critical frequencies. Nothing in this section should be construed to create any right of a subscriber to inside wiring that would frustrate the cable operator's ability to prevent or protect against signal leakage during the period the cable operator is providing service to such subscriber.

House Report at 119 (emphasis added). Thus there is no intention by Congress to impose upon the cable system the duty or obligation of ensuring adequate signal leakage

protection of home wiring that the cable operator did not install or through which it does not provide service.

C. Integrity of Cable System Facilities

The home wiring provisions of amended section 624 extend only to those installations made by the cable operator. They do not extend to non-cable installations, be they those of another "multichannel video programming distributor" or of the homeowner or a contractor on his or her behalf. The Commission's regulations should clarify this limited scope and application of section 624. (See also discussion at II.E., Infra.)

In the case of a re-connect or a new-connect where the subscriber has his or her own internal wiring configuration, a cable operator should not be required to utilize any such home wiring if it was not originally supplied by the operator or, if originally supplied by the operator, the wiring has become inadequate at the time of the re-connect or new-connect in light of, for example, the wiring's deterioration or obsolescence in light of system advancements during the time the operator was not providing service to the subscriber. In all events, cable operators should have maximum flexibility, including necessary access and inspection capability, to upgrade or otherwise replace any subscriber-owned home wiring as part of re-providing service to premises that have ceased taking cable,

consistent with requirements to ensure the overall integrity of the cable system.³

D. Signal and Service Theft

The Commission's regulations should ensure the cable operator such access to and inspection of home wiring supplied by the cable operator and acquired by the subscriber as necessary to permit the operator to ensure that no theft of signal or service has or would occur upon re-connection to the home wiring installation. Upon inspection, the cable operator should be permitted to charge the subscriber for as many outlets as the home wiring installation provides, unless the subscriber permits the cable operator to cut-off any additional outlets the subscriber does not wish to receive.

The need for a federal right of access for inspection to detect signal and service theft is particularly important in a multi-dwelling unit environment where it may be unclear to consumers where standard in-house wiring ends and theft of services begins (running the line through the wall to the neighbor's unit). Otherwise cable operators would be required to undertake additional security methods, such as,

³Part of the arrangement between the cable operator and the subscriber to acquire the operator's home wiring could include adjustments to the home wiring system in the event necessary to ensure its adequacy and any necessary retrofitting or replacement upon re-subscription to the cable operator's cable service.

digital encryption, adding substantially to the cost of basic and additional outlet basic service.

E. Non-Cable-Supplied In-Home Video Distribution Plant

Generally the coaxial cable and connecting equipment that is available to the homeowner through consumer electronics outlets and non-cable supply sources offer poor shielding effectiveness and vary widely in quality and fitness for cable installation. Connectors are more suitable to ease of installation than signal leakage integrity. The availability of amplifiers and amplified signal splitters from consumer electronics outlets compounds the problem as consumers, under the mistaken belief that "more power is better signal," inject excessive signal levels into undershielded cabling and connectors, resulting in leakage attributable to the cable system.

Accordingly, the Commission's regulations should clearly articulate that a cable operator is not required to utilize any in-home video distribution plant not installed by it.

F. Maintenance

Maintenance is an important, ongoing activity, implicating important safety considerations. In the 12 month period from November 1, 1991 to November 1, 1992, almost 20 percent of TKR episodes of signal leakage were associated with in-home wiring. Cable operators thus should be free to fashion different options for subscriber

acquisition of cable-installed home wiring that take into account maintenance. If the subscriber is to acquire the ownership of the internal wiring, then so must he or she have the ultimate obligation to bear the cost of maintenance. If the home wiring falls out of compliance with the system's signal leakage and other technical requirements, the system must be permitted, as under current regulations, to suspend service until the problem is corrected. See, e.g., House Report at 119. Thus, part of any arrangement to permit subscriber ownership of cable-installed home wiring should include the availability (at a reasonable cost) of an ongoing maintenance service program. Absent a subscriber's election to take a maintenance program, a condition of his or her continued cable service would include a reasonable, but compensatory, per-visit maintenance charge as and when a problem should develop.

G. Upgrading

The Commission's regulations should not create a disincentive for cable operators to upgrade their cable plants, including the in-home distribution system. The effects of "dress" of the wire installation, connectorization, and the location of splitting devices and attachment types have a major effect on broadband signal which becomes more critical as bandwidth and frequency range increase as well as when advanced technologies such as

digital transmission and compressed digital transmission are utilized on the system's subscriber network.

Where subscriber-acquired home wiring is no longer suitable for reconnection to the cable system, the system should be under no additional obligation with respect to that subscriber. While the system may be required to incorporate and/or upgrade if possible the subscriber's plant, it should be under no obligation to do so without recouping costs involved if, within the system's discretion, an upgrade/retrofit is possible. Any costs to remove inadequate subscriber plant to accommodate the replacement installation should also be borne by the subscriber.

H. Removal or Abandonment

Upon discontinuance of his or her subscribership, subscribers sometimes request removal of the installation, and at other times the cable operator leaves the installation for the next subscriber. The Commission's regulations should permit cable operators and subscribers to resolve these issues as part of the arrangement by which the subscriber can obtain ownership of the home wiring at the end of his or her subscription.

I. Compensation and Access

The Commission's regulations should permit a cable operator to obtain a fair value for its internal wiring as may be agreed between the subscriber and the cable operator. By the same token, as mentioned above (see, e.g., § II.D.),

the cable operator should be given continued, federal, access to the premises to provide service, even though the internal wiring may no longer belong to it.

J. Point of Demarcation and Multi-Dwelling Units

Cable operators should be free to make good faith engineering determinations as to where the home wiring distribution system should begin and where the cable system should end. This point of demarcation between source and in-house wiring varies by building type. The location of the primary outlet is usually a suitable point of demarcation for single family dwellings and multi-dwelling units of four or fewer units, provided that the location is after the point in which the cable television drop has been grounded in accordance with applicable codes and law, including franchise requirements, if any.

Multi-dwelling units present no single appropriate point of demarcation. Much depends on the extent to which the building was pre-wired or, if partially or completely post-wired, what method of installation was employed. To some extent the primary outlet to the individual unit can be accommodated as a point of demarcation, consistent with grounding considerations.⁴ In no case, however, should the cable operator be required to place the point of demarcation

⁴Were the Commission's regulations to prescribe a common point of bonding, such as at the electrical meter housing, then the issue of grounding with respect to both single and multi-family dwellings would for the most part be resolved with a minimum of cost.

at any secured enclosure by which the cable operator provides interconnection with any pre- or post-wired loop providing distribution to any common wiring. Accordingly, the Commission should provide an exemption in its regulations for subscriber ownership of home wiring in those multi-dwelling units where demarcation cannot be accomplished at the primary outlet to each individual unit. Where demarcation can be accomplished at the primary outlet, the regulations should permit the cable operator to pass on to the subscriber the cost of demarcation.

III. Conclusion

In light of the above, the Commission's regulations should be flexible and open-ended, preserving the means for cable operators to continue to provide high quality service at maximum value while allowing those subscribers who desire to acquire the cable system's home-wiring installation the ability to do so for fair and reasonable consideration.

Respectfully submitted,

TKR CABLE COMPANY

By: Peter Luscombe *leg JEM*
Peter Luscombe
Vice President of Engineering

By: James E. Meyers
James E. Meyers
Mark J. Palchick
B. Jay Baraff
Its Counsel

Baraff, Koerner, Olender
& Hochberg, P.C.
5335 Wisconsin Avenue, N.W.
Suite 300
Washington, DC 20015-2003
(202) 686-32002